

SCOTTSDALE

# CITY COUNCIL MEETING

## \*\*\*AMENDED\*\*\* MEETING NOTICE AND AGENDA

[ADDED SPECIAL MEETING COMMENCING DIRECTLY AFTER ADJOURNMENT OF REGULAR MEETING]



### COUNCIL

Mary Manross, Mayor

Betty Drake

Wayne Ecton

W.J. "Jim" Lane

Robert W. Littlefield

Ron McCullagh

Tony Nelssen

Tuesday, August 26, 2008

**5:00 P.M.**

### CITY COUNCIL MEETING

### MARKED AGENDA

**Call to Order** – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **5:02 PM**

**Roll Call** – **ALL PRESENT**

**Pledge of Allegiance** – **COUNCILMEMBER DRAKE**

**Invocation** – **DERRICK VAN DALEN, PALM LANE CHRISTIAN REFORM CHURCH**

**City Manager's Report** - **MR. LITTLE RECOGNIZED SEVERAL EMPLOYEES' PERFORMANCES IN THE CITY'S "I MAKE A DIFFERENCE" PROGRAM. THERE IS A GETTING ARIZONA INVOLVED IN NEIGHBORHOODS (GAIN) KICKOFF EVENT SCHEDULED FROM 6:00 PM TO 7:30 PM ON SEPTEMBER 4<sup>TH</sup> AT THE CIVIC CENTER LIBRARY. THE FALL SESSION OF SCOTTSDALE 101 CLASSES COMMENCES SEPTEMBER 17, 2008 AND RUNS FOR 8 WEEKS.**

### **Presentations/Information Updates**

**Public Comment** – **SUZAN CURTAIN PRESENTED TWO CITIZEN PETITIONS REQUESTING IMPROVEMENTS TO INDIAN SCHOOL ROAD; JOEL SINCLAIRE INTRODUCED HIMSELF AS A CANDIDATE FOR THE MARICOPA COUNTY BOARD OF SUPERVISORS; KYLE POWERS EXPRESSED CONCERN ABOUT CODE ENFORCEMENT EFFORTS IN THE SOUTHERN PART OF THE CITY; JOHN WASHINGTON PRESENTED A CITIZEN PETITION ASKING THE COUNCIL TO ADOPT A RESOLUTION TO EXCLUDE THE MAYOR FROM FUTURE PARTICIPATION IN THE HUALAPAI LLC LITIGATION AND/OR SETTLEMENT ACTIVITIES.**

Citizens may complete one Request to Speak "Public Comment" card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "Public Comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items. **Speakers are limited to three minutes to address the Council during "Public Comment" time.**



PERSONS WITH A DISABILITY MAY REQUEST A REASONABLE ACCOMMODATION BY CONTACTING THE CITY CLERK'S OFFICE AT (480-312-2412). REQUESTS SHOULD BE MADE 24 HOURS IN ADVANCE, OR AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE ACCOMMODATION. FOR TTY USERS, THE ARIZONA RELAY SERVICE (1-800-367-8939) MAY CONTACT THE CITY CLERK'S OFFICE (480-312-2412).

**How the Consent Agenda Works:** The Council may take one vote to act on all items on the Consent Agenda, or may remove items for further discussion. Every interested citizen will have one opportunity to speak on any or all Consent Agenda items. If you wish to speak on these items, please complete a Request to Speak card for each topic you wish to address. **You will be given at least three minutes to speak on all the Consent Agenda items you wish to address. Additional time for multiple agenda items will be at the Mayor's discretion.**

After all speakers have finished, the City Council will decide which items to remove for additional discussion and/or presentation from staff. Items not removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Council will be acted on as appropriate.

1. **Sportsman's Fine Wines and Spirits Conditional Use Permit (12-UP-2008) – APPROVED ON CONSENT**  
**Requests:**
  1. Approve an amendment to a floor plan of an existing Conditional Use Permit (Case No. 38-UP-2004) for a bar use within the Shea Scottsdale Shopping Center.
  2. Adopt **Resolution No. 7689** affirming the Conditional Use Permit for an amendment to the floor plan of the existing bar and finding that the conditional use permit criteria have been met.**Location:** 10893 N. Scottsdale Road, Suite 101  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov); Lusia Galav, Current Planning Director, 480-312-2506, [lgalav@scottsdaleaz.gov](mailto:lgalav@scottsdaleaz.gov)
2. **Sportsman's Fine Wines and Spirits Bar Liquor License (41-LL-2008) – APPROVED ON CONSENT**  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 6 (bar) liquor license for an existing location with a new owner.  
**Location:** 10893 N. Scottsdale Road, Suite 101  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
3. **Streets of New York Beer and Wine Bar Liquor License (58-LL-2008) – APPROVED ON CONSENT**  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 7 (beer and wine bar) liquor license for an existing location with a new owner.  
**Location:** 15560 N. Frank Lloyd Wright Boulevard, Suite 6  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
4. **Wally's American Pub 'N Grille Restaurant Liquor License (59-LL-2008) – APPROVED ON CONSENT**  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.  
**Location:** 7704 E. Doubletree Ranch Road  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

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5. **Days Inn Scottsdale Beer and Wine Bar Liquor License (60-LL-2008)** – APPROVED ON CONSENT  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 7 (beer and wine bar) liquor license for an existing location with a new owner.  
**Location:** 4710 N. Scottsdale Road  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
6. **Indulge Great Burgers & More Restaurant Liquor License (61-LL-2008)** – APPROVED ON CONSENT  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for a new location and owner.  
**Location:** 10392 N. Scottsdale Road, Suite 107  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
7. **Fusion Sushi China Bistro Restaurant Liquor License (62-LL-2008)** – APPROVED ON CONSENT  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for a new location and owner.  
**Location:** 15768 N. Frank Lloyd Wright Boulevard, Suite D-3  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
8. **T.T. Roadhouse Permanent Extension of Premises (57-EX-2007)** – APPROVED ON CONSENT  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for T.T. Roadhouse.  
**Location:** 2915 N. 68<sup>th</sup> Street  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
9. **New China Gate Restaurant Permanent Extension of Premises (27-EX-2008)** – APPROVED ON CONSENT  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for New China Gate Restaurant.  
**Location:** 7730 E. McDowell Road, Suite 111  
**Staff Contact(s):** Connie Padian, Interim Planning and Development Services General Manager, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
10. **Settlement of City of Scottsdale v. Weinberg/Heilweil/Bond, et al., Preserve Condemnation Cases** – APPROVED ON CONSENT  
**Request:** Adopt **Resolution No. 7706** authorizing the City Attorney to settle City of Scottsdale v. Weinberg/Heilweil/Bond, et al. (consolidated cases), Superior Court Case Nos. CV2004-018127, CV2004-016667 and CV2004-016506, eminent domain actions brought to acquire real property for the McDowell Sonoran Preserve.  
**Related Policies, References:** Resolution No. 6074, adopted June 3, 2002, and Resolution No. 6306, adopted June 16, 2003, authorized the condemnation of these properties for the McDowell Sonoran Preserve.  
**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

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11. **Arizona State Department of Library, Archives, and Public Records Library Services and Technology Act Grant** – **APPROVED ON CONSENT**

**Requests:**

1. Adopt **Resolution No. 7702** authorizing the Library Division of the Community Services Department to accept a 2008-2009 Library Services and Technology Act grant from the Arizona State Library, Archives and Public Records in the amount of \$25,500. The grant will be used for a project entitled “Scottsdale Remembers: Recollections of Our Past,” and will allow the Scottsdale Public Library to work collaboratively with community organizations to make their histories available to the public.
2. Authorize the transfer of \$25,500 in Future Grants Budget adopted in the FY 2008/09 Grants Budget to the center assigned to record all grant activity.
3. Authorize the Library Director, as agent of the City, to accept and administer the grant.

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov); Rita Hamilton, Library Director, 480-312-7039, [rhamilton@scottsdaleaz.gov](mailto:rhamilton@scottsdaleaz.gov)

12. **Intergovernmental Agreements with the Regional Public Transit Authority for Provision of Bus and East Valley Dial-A-Ride Services** – **APPROVED ON CONSENT**

**Requests:**

1. Adopt **Resolution No. 7677** authorizing Intergovernmental Agreement No. 2007-132-COS-A1 with the Regional Public Transportation Authority for the purpose of providing express and fixed route transit service and the funding of associated costs for FY 2008/09 in the amount of \$5,135,428.
2. Adopt **Resolution No. 7678** authorizing Intergovernmental Agreement No. 2007-133-COS-A1 with the Regional Public Transportation Authority for the purpose of providing East Valley Dial-A-Ride paratransit service and the funding of associated costs for FY 2008/09 in the amount of \$426,163.

**Related Policies, References:**

- IGA No. 2006-121-COS
- IGA No. 2005-017-COS
- City Procurement Code
- A.R.S. § 11-951, et seq.
- Article 1, Section 3-1 of the City Charter

**Staff Contact(s):** Mary O’Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

13. **Intergovernmental Agreement with Maricopa County for Special Transportation Services** – **APPROVED ON CONSENT**

**Request:** Adopt **Resolution No. 7679** authorizing Intergovernmental Agreement No. 2008-133-COS with the Maricopa County Human Services Department to provide special transportation services for eligible participants for FY 2008/09 in an amount not to exceed \$10,000.

**Related Policies, References:**

- A.R.S. § 11-951, et seq.
- Article 1, Section 3-1 of the City Charter
- City Procurement Code

**Staff Contact(s):** Mary O’Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

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## 14. Intergovernmental Agreements with the City of Phoenix for Transit Service and Federal Capital Grants – APPROVED ON CONSENT

### Requests:

1. Adopt **Resolution No. 7680** authorizing the acceptance of Intergovernmental Agreement Contract Change Order 2004-163-COS-A4, an annual amendment to the contract with the City of Phoenix for the provision of fixed-route bus services on routes serving Scottsdale, in the amount of \$2,421,858.
2. Adopt **Resolution No. 7682** authorizing Intergovernmental Agreement No. 2008-136-COS with the City of Phoenix to accept Federal Transit Administration (FTA) Grant No. AZ-04-0005 in the amount of \$501,600 for the construction of an intermodal facility in the vicinity of Scottsdale and McDowell roads.
3. Adopt **Resolution No. 7683** authorizing Intergovernmental Agreement No. 2008-137-COS with the City of Phoenix to accept FTA Grant No. AZ-90-X088 in the amount of \$2,253,629 for the construction of a regional park and ride facility in the vicinity of 90<sup>th</sup> Street and Shea Boulevard.

### Related Policies, References:

- A.R.S. § 11-951, et seq.
- Article 1, Section 3-1 of the City Charter
- City FY 2008/09 Capital Improvement Program
- City Procurement Code

**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

## 15. Acquisition of Rights-of-Way for the Hayden Road and Shea Boulevard Intersection Improvement Project – APPROVED ON CONSENT

**Request:** Adopt **Resolution No. 7675** authorizing the acquisition of various rights-of-way interests from properties located along Hayden Road and Shea Boulevard for the Hayden and Shea intersection improvement project.

**Related Policies, References:** On September 21, 2004, Council approved Engineering Services Contract No. 2004-114-COS with Stantec Consulting, Inc., for design of Hayden Road and Shea Boulevard intersection improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

## 16. Arizona Public Service Renewable Energy Agreements for Fire Station 2 – APPROVED ON CONSENT

**Request:** Adopt **Resolution No. 7699** authorizing:

1. Agreement No. 2008-143-COS with Arizona Public Service (APS) for the interconnection of the City's photo voltaic (PV) system at Fire Station 2 to APS' distribution system.
2. Agreement No. 2008-144-COS with APS to convey to APS the title to and interest in any environmental credits associated with the electrical power produced from the City's PV system.

### Related Policies, References:

- On December 6, 2004, Council adopted Resolution No. 6580 authorizing purchase of real property intended for construction of a new Downtown Fire Station.
- On August 29, 2005, Council authorized Architectural Services Contract No. 2005-131-COS with LEA-Architects, LLC, for the design of Fire Station 2.
- On January 24, 2006, Council authorized CM@Risk Contract No. 2006-005-COS with Sun Eagle Corporation, Inc., for design phase services for Fire Station 2.
- On July 9, 2007, Council Authorized CM@Risk Contract No. 2007-058-COS with Sun Eagle Corporation, Inc., for the construction of Fire Station 2.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

17. **Construction Services Contract for Miller Road Alignment Sewer System Improvements – APPROVED ON CONSENT**

**Request:** Adopt **Resolution No. 7661** authorizing CM@Risk Construction Services Contract No. 2008-127-COS with Don Kelly Construction, Inc., for construction of sewer improvements along the Miller Road alignment from McDowell Road to the Princess metering station at a guaranteed maximum price of \$13,971,821.57.

**Related Policies, References:**

- On July 11, 2006, Council approved Engineering Services Contract No. 2006-095-COS with Brown and Caldwell Engineering for the design of Miller Road sewer improvements.
- On July 9, 2007, Council approved CM@Risk Design Phase Services Contract No. 2007-127-COS with Don Kelly Construction, Inc., for Miller Road sewer improvements.
- On February 5, 2008, Council approved CM@Risk Construction Services Contract No. 2008-013-COS with Don Kelly Construction, Inc., for construction of sewer system improvements along the Culver Street alignment from Miller Road to 74<sup>th</sup> Street.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

18. **Construction Bid Award for Rose Garden West Utility Improvement Project – APPROVED ON CONSENT**

**Request:** Adopt **Resolution No. 7698** authorizing Construction Bid Award No. 08PB089 with Citywide Contracting, Inc., the lowest responsive bidder at their lump sum bid of \$484,648 for the Rose Garden West Utility Improvement Project.

**Related Policies, References:**

- On July 5, 2005, Council approved Development Agreement No. 2005-121-COS with Rose Garden Partners, LLC, governing the development of real property parcels on the south side of the Arizona Canal on either side of Goldwater Boulevard.
- On May 15, 2006, Council approved the first amendment to the development agreement with Rose Garden Partners.
- On July 10, 2007, Council approved the Amended and Restated Rose Garden Development Agreement which allowed for design approval and financing of the project in three components.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

19. **Intergovernmental Agreement with the State of Arizona for Indian Bend Wash Multi-Use Path Connection Improvements – APPROVED ON CONSENT**

**Request:** Adopt **Resolution No. 7696** authorizing Intergovernmental Agreement No. 2008-140-COS with the State of Arizona for the construction of Indian Bend Wash multi-use path connection improvements.

**Related Policies, References:**

- On January 24, 2006, Council authorized Engineering Services Contract No. 2006-004-COS with Carter Burgess, Inc., for the design of the Indian Bend Wash multi-use path connection improvements.
- On October 16, 2007, Council authorized acquisition of easements for the Indian Bend Wash multi-use path connection improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)



**Public Comment – NONE**

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**Mayor and Council Items – NONE**

**Adjournment – 5:45 PM**

**\*\*\* CITY COUNCIL SPECIAL MEETING**

**Call to Order** – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **5:46 PM**

**Roll Call – ALL PRESENT**

1. REQUEST FOR EXECUTIVE SESSION TO:

- A. Discuss and consult with its attorneys for legal advice; discuss and consult with its attorneys to consider the City’s position and instruct its attorneys regarding Scottsdale Perimeter Center I, LLC v. State of Arizona et al., CV2004-019183. All of these purposes are with respect to the referenced litigation. A.R.S. § 38-431.03(A)(3) and (4).

**Staff Contacts(s):** Deborah Robberson, City Attorney, 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Bruce Washburn, Deputy City Attorney, 480-312-2405, [bwashburn@scottsdaleaz.gov](mailto:bwashburn@scottsdaleaz.gov)

2. MOTION TO RECESS INTO EXECUTIVE SESSION TO: **- OK – 7/0**

- A. Discuss and consult with its attorneys for legal advice; discuss and consult with its attorneys to consider the City’s position and instruct its attorneys regarding Scottsdale Perimeter Center I, LLC v. State of Arizona et al., CV2004-019183. All of these purposes are with respect to the referenced litigation.

**Adjourn to Executive Session – 5:49 PM**